IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:-27-07-2005

Coram:-
The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice AR. RAMALINGAM

Writ Petition No. 11129 of 2001

1. Union of India,
   Union Territory of Pondicherry,
   represented by Superintending Engineer-I,
   Electricity Department,
   Government of Pondicherry, Pondicherry.

2. The Superintending Engineer-I,
   Electricity Department,
   Pondicherry.

.. Petitioners.

Vs.

1. Central Administrative Tribunal,
   Madras Bench,
   represented by its Registrar,
   Madras.

2. Electricity Department,
   Store Assistant Association,
   represented by its President
   S. Soundararaj @ Govindasamy,
   Store Assistant, Electricity Department,
   Pondicherry.

3. K. Pugazhendi,
   Store Assistant,
   Electricity Department, Pondicherry.

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.. Respondents.

Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for records in Original Application No. 551/2000 dated 23-01-2001 on the file of Central Administrative Tribunal, Madras Bench and quash the same.

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For petitioners: Mr. T. Murugesan, Govt., Pleader
(Pondicherry) assisted by Mr.
Syed Mustafa.

For respondents 2 and 3 : Mr. V. Ajaykumar

ORDER

(Order of Court was made by P. Sathasivam, J.,)

Aggrieved by the order of the Central Administrative Tribunal, Chennai Bench dated 23-01-2001, made in O.A.No. 551/2000, Pondicherry Administration has filed the above writ petition.

2. Respondents 2 and 3 herein, aggrieved by the order of the Government of Pondicherry in G.O.Ms.No. 11/2000/P 1(5) dated 16-05-2000, filed the above Original Application before the Central Administrative Tribunal seeking to quash the said Government Order and to direct the respondents therein to create post of Store Keeper Grade-II, Store Keeper Grade-I and Store Superintendent existing in the Electricity Department as the promotional avenues for the Store Assistants. In the same application they also prayed to consider the Store Assistants for promotion against the said vacancies in the Electricity Department and to promote the eligible Store Assistants to the said post. The Tribunal, by the impugned order, did not grant reliefs on the first and second prayers and in respect of third relief, the Tribunal has directed the Pondicherry Administration to consider the applicants who were working in the Electricity Department for filling up the promotional post of Store Keeper Grade II, Store Keeper Grade I and Store Superintendent without inducting any one from other departments.

3. Heard Mr. T. Murugesan, learned Government Pleader, Pondicherry for petitioners and Mr. V. Ajaykumar for respondents 2 and 3.

4. Learned Government Pleader, after taking us through the service particulars and the relevant Rules for the Store Keeping Posts, and the impugned order of the Tribunal, would contend that the impugned order was passed under the wrong impression that the Electricity Department has got its own hierarchical structure of Store Keeper Grade-II, Store Keeper Grade-I and Store Superintendent for giving promotion to the persons working as Store Assistants. According to the Government Pleader, the Director of Accounts and Treasuries who is under the control of Finance Department is the Cadre Controlling Authority. However, Mr. V. Ajaykumar, learned counsel appearing for respondents 2 and 3, reiterated the reasonings of the Tribunal.

5. In the light of the above assertion by the Pondicherry Administration/petitioners herein, we have carefully perused the stand of the department before the Tribunal as well as the conclusion arrived at by the Tribunal. The observation of the Tribunal is that the

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department has not furnished proper details to show that the Electricity Department has got its own recruitment rules and seniority in each cadre. In this regard, it is relevant to note the reply statement filed by the department in O.A.No. 551/2000 wherein it has been stated that the Director of Accounts and Treasuries who is under the control of Finance Department, is the Cadre Controlling Authority of the Store Keeping Cadre, consisting of the following promotional hierarchical grades:

(i) Store Superintendent
(Rs.6500 - 10500)

(ii) Store Keeper Grade-I/Stock Verifier
(Rs.5000 - 8000)

(iii) Store Keeper Grade-II
(Rs.4000 - 6000) and

(iv) Store Keeper Grade-III
(Rs.3050 - 4590)

According to the recruitment rules in vogue from 1977, the erstwhile Store Assistants in Electricity Department have opportunity for getting promotion one after the other to the posts Store Keeper Grade-III, Store Keeper Grade-II, Store Keeper Grade-I and Store Superintendent existing in all Departments in Pondicherry administration including those posts available in Electricity Department. It is also brought to our notice that there is no hierarchical promotional line such as Store Keeper Grade-II, Store Keeper Grade-I and Store Superintendent under the cadre controlling authority of Electricity Department, since the cadre controlling authority of the posts of Store Keeper Grade-III, Store Keeper Grade-II, Store Keeper Grade-I and Store Superintendent is the Directorate of Accounts and Treasuries which is under the control of Finance Department. In the grounds of affidavit filed in this writ petition, the petitioners have also furnished the details of 38 persons who are now working in various departments (vide ground (2) of para 11 of the affidavit).

6. It is also brought to our notice that the post of Store Keeper Grade-III, Store Keeper-Grade II, Store Keeper Grade-I and Store Superintendent are available in different departments. The particulars furnished would show that in the Electricity Department also there are 19 posts of Store keeping cadre which is being controlled by the Director of Accounts and Treasuries as given below:

Store Superintendent - 1 post
Store Keeper Grade-I/Stock Verifier - 7 posts.
Store Keeper Grade-II - 7 Posts
Store Keeper Grade-III - 4 + 36 Posts

It is the claim of the department that though these posts are available in the Electricity Department, recruitment for filling up all these posts

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cannot be made by the Electricity Department. As the Director of Accounts and Treasuries is the cadre controlling authority, recruitment and promotion to these categories of posts in Electricity Department as well as in other Departments in this administration are being made by the Directorate of Accounts and Treasuries on the basis of the Recruitment Rules and on the basis of the single grade-wise seniority list maintained by the Directorate of Accounts and Treasuries.

7. Though the above details have been furnished before the Tribunal, we are unable to accept the contrary conclusion arrived at as well as the positive direction given by the Tribunal to the Electricity Department to consider the case of the applicants who are working in the Electricity Department for filling up the promotional posts of Store Keeper-Grade-II, Store Keeper Grade-I and Store Superintendent without inducting any one from other departments. But at the same time, we are of the view that promotion to such posts has to be made from among the eligible persons working in the Electricity Department as well as the other departments according to the published Recruitment Rules and also on the basis of the seniority of officers in each grade only. No doubt, the erstwhile Store Assistants will also be in the common seniority list. Whenever they are eligible for promotion to each grade, they will also be considered for promotion. We are satisfied that the post of Store Keeper Grade-II, Store Keeper Grade-I and Store Superintendent in Electricity Department are part of overall store keeping cadre of Pondicherry administration. In such a circumstance, the promotional posts are to be filled up by the persons who are now working in Store keeping cadre in various Departments of the Government of Pondicherry on the basis of common seniority as provided in the Recruitment Rules. In such a circumstance, the Store Keeping persons working in Electricity Department and other Departments in the Pondicherry Administration cannot be prevented from being given promotion to the Store Keeping cadre posts such as store Keeper Grade-II, Store Keeper Grade-I and Store Superintendent of Electricity Department. Unfortunately the Tribunal has lost sight of the above mentioned material and relevant aspect and thus committed an error in issuing such direction which cannot be implemented, and the same is also against the law in so far as it related to Published Recruitment Rules and settled seniority. As rightly pointed out, it is also not practically possible in view of personal reasons of keeping posts vacant for years together. Further, it will also affect the rights of the legitimate persons for getting promotion as and when it is due to them. All the above mentioned relevant materials have not been considered by the Tribunal.

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8. Under these circumstances, the impugned order of the Central Administrative Tribunal dated 23-01-2001 made in O.A.No. 551 of 2000 is set aside and the Writ Petition is allowed. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

R.B.

To:-
1. The Registrar,
   Central Administrative Tribunal,
   Madras Bench, Madras.

2. The Superintending Engineer - I,
   Electricity Department,
   Govt. of Pondicherry, Pondicherry.

3. The Superintending Engineer - II,
   Electricity Department,
   Pondicherry.

+ 1 CC to Senior Govt. Pleader Pondicherry Advocate SR NO 30943

W.P.No. 11129 of 2001
Dt:- 27-07-2005

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